NOTIFICATION.

No. L.D 989—Legis. 30-49-5, dated Bangalore, 18th January 1950.

Ordered that the accompanying Indian Penal Code (Amendment) Bill, 1949 (69 of 1949), the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Bill, 1949 (71 of 1949), the Punishment of Tax Evaders and Blackmarketeers Bill, 1949 (72 of 1949), the Children's Protection Bill, 1949 (73 of 1949), the Council of Press of India Bill, (74 of 1949), the Training and Employment Bill (76 of 1949), the Rehabilitation Finance Administration (Amendment) Bill (77 of 1949), the Banking Companies (Amendment) Bill (79 of 1949) and the Undesirable Immigrants (Expulsion from Assam) Bill, 1949 (81 of 1949) be republished in the *Mysore Gazette* for general information.

By Order,

B. S. PUTTASWAMY,
Legal Remembrancer and
Secretary to Government,
Law Department.

PART V.

Bills introduced in the Constituent Assembly of India (Legislative), Reports of Select Committees presented to the Constituent Assembly of India (Legislative) and Bills published under Rule 39 of the Constituent Assembly (Legislative) Rules of Procedure and Conduct of Business.

GOVERNMENT OF INDIA

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The following Bills were introduced in the Constituent Assembly of India (Legislative) on the 16th December, 1949 :—

A. BILL No. 69 OF 1949.

A Bill further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the Indian Penal Code (XLV of 1860) in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Indian Penal Code (Amendment) Act, 19 .

(2) It shall extend to such parts of the Dominion of India where the Indian Penal Code and all amended provisions thereof are in force at present.

(3) It shall come into force at once.

2. Amendment of section 53, Act XLV of 1860.—In section 53 of the Indian Penal Code (XLV of 1860) (hereinafter referred to as the said Act) the words "First-Death" shall be omitted and the clauses Secondly, Thirdly, Fourthly, Fifthly, and Sixthly, shall be renumbered First, Secondly, Thirdly, Fourthly, and Fifthly, respectively.

3. Amendment of section 121, Act XLV of 1860.—In section 121 of the said Act the words "death, or" shall be omitted.

4. Amendment of section 132, Act XLV of 1860.—In section 132 of the said Act the words "with death or" shall be omitted.

5. Amendment of section 194, Act XLV of 1860.—In section 194 of the said Act the words "either" and "death or" shall be omitted.

6. Amendment of section 302, Act XLV of 1860.—In section 302 of the said Act the words "death, or" shall be omitted.

7. Omission of section 303, Act XLV of 1860.—Section 303 of the said Act shall be omitted.

8. Amendment of section 305, Act XLV of 1860.—In section 305 of the said Act the words "death or" shall be omitted.

9. Amendment of section 307, Act XLV of 1860.—The second paragraph of section 307 of the said Act shall be omitted.

10. Amendment of section 396, Act XLV of 1860.—In section 396 of the said Act the words "death, or" shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The object of the Bill is to abolish sentence of death prescribed for different offences under the Indian Penal Code. Experience has shown that the mode of punishment has not only failed to achieve its object of creating deterrent effects but has in many cases put an end to human lives which, if spared, might have proved very precious to the country. The abolition of death sentence will enable the state to prevent the irreparable mischief arising out of miscarriage of justice. The main provision of the Bill will do away with sentence of death altogether as a mode of punishment.

ROHINI KUMAR CHAUDHURI.

A. BILL No. 71 OF 1949.

A Bill to provide for the prohibition of manufacture and import of hydrogenated vegetable oils.

WHEREAS it is expedient to provide for the prohibition of the manufacture and import of hydrogenated vegetable oils popularly known as *vanaspati* ghee;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(*1*) This Act may be called the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Act, 1949.

(2) It extends to all the provinces of India and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act.

(3) It shall come into force on such date as the Central Governmene may, by notification in the official Gazette, appoint in this behalf.

2. Definitions.—In this Act,—

(*a*) "vegetable oils" include cocoanut, groundnut, cotton seed, sesamum, *til*, rape seed oils and such other oils as are used or are usable for the manufacture of hydrogenated vegetable oils popularly known as *vanaspati* ghee.

(*b*) Hydrogenation means the process of passing hydrogen through vegetable oils.

3. Prohibition of manufacture and import of hydrogenated vegetable oils.—It is hereby declared that it is expedient in the public interest that the manufacture and import in the Indian Union of hydrogenated vegetable oils, popularly known as *vanaspti* ghee, be prohibited and the same are hereby prohibited.

4. Punishment for manufacture or import of hydrogenated vegetable oils.—Any person who manufactures or imports or abets the manufacture or import of hydrogenated vegetable oils into the Indian Union shall be punished with imprisonment of either description for a term which may extend to one year.

5. Forfeiture of certain property used in the commission of the offence.—Whenever any offence relating to the manufacture or import of hydrogenated vegetable oils has been proved to have been committed, the court shall order that the machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods and the imported vegetable oils, as the case may be, be forfeited to the Government.

6. Issue of search warrants, disposal of property seized and appeals.—(*1*) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the First Class specially empowered in this behalf, upon information and after such enquiry as he thinks necessary, has reason to believe that any place is being used for the manufacture of hydrogenated vegetable oils or for the deposit of imported hydrogenated vegetable oils, he may, by warrant, authorise any

Police officer, above the rank of a constable, to enter, with such assistance as may be required, such place and to search the same and take into possession any machinery, utensils, receptacles, other instruments or articles, components or unfinished or finished goods used for and connected with the manufacture of hydrogenated vegetable oils and the imported hydrogenated vegetable oils, as the case may be, in accordance with the general provisions of the Code of Criminal Procedure, 1898 (V of 1898) relating to searches, and make a report to the court how the warrant has been executed and what things or articles have been taken into possession.

(*2*) The court may make such orders as it thinks fit for the proper custody of the articles or things taken into possession on search pending the conclusion of the enquiry or trial, and after conclusion of the enquiry or trial, order the destruction, forfeiture, sale of any such articles or things, as the case may be, and in case the court finds that such articles or things were not used for or were not connected with the manufacture of hydrogenated vegetable oils or the stuff seized was not hydrogenated vegetable oil or was not imported, it shall order the return of such articles, things or goods to the person entitled to the possession thereof.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal against such order to the court to which appeals ordinarily lie from such subordinate court.

STATEMENT OF OBJECTS AND REASONS.

This Bill aims at prohibiting the manufacture and import of what is popularly known as *vanaspati* ghee. The stuff known as *vanaspati* ghee is in fact no ghee at all, but it is hydrogenated vegetable oil and that too of inferior quality from the point of nutrition. Usually groundnut or cotton seed oil and similar oils are used for the manufacture of *vanaspati* ghee. The process of hydrogenation, *i.e.*, passing hydrogen through vegetable oils solidifies these oils and imparts to them the texture, shape, consistency and flavour of ghee and thereby invests these oils with potential and potent capacity for being undetectably adulterated with pure ghee. The Ayurvedic science and the popular notions associate great potentialities of imparting vigour and strength to the human system with pure ghee and regard milk-ghee as *Amrit*.

In the last few years its manufacture has increased to an alarming extent and the manufacturing interests have become so powerful and

influential that in spite of its most baneful effects on the physical health, public morals and rural economy of the country, the Government has not been able to check its growth.

It has been proved by experiments carried on in Government Scientific Laboratories that its use is detrimental to health.

The demand in the country for prohibiting the manufacture and import of *vanaspati* ghee is very strong.

As the clauses are self-evident, no separate notes are necessary.

THAKUR DAS BHARGAVA.

A. BILL No. 72 OF 1949.

A Bill to provide for the punishment of tax evaders and blackmarketeers.

WHEREAS it is expedient and necessary to check the evil of evasion of taxation by fraud or falsehood as also the widespread practice of blackmarketing in this country;

It is hereby enacted as follows:—

1. **Short-title, extent and commencement.**—(*1*) This Act may be called the Punishment of Tax Evaders and Blackmarketeers Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. **Definition.**—"Blackmarketing" for the purpose of this Act shall mean and include excessive price charged in buying, selling, giving loan, renting, leasing, pledging or mortgaging any goods, property in land or buildings, stocks, shares or debentures, dealings in which are regulated by the Government of India or any State therein; prices fixed in maximum or minimum distribution, use of consumption controlled by any system of rationing or quota, and such practices as premia or *Pugree* paid for lodging or house-room, furniture or utensils wherever rents for such house-room with or without furniture or utensils are controlled.

3. **Punishment for Tax-evasion and Blackmarketing.**—(*1*) Every person, found guilty of evading by false or misleading statements, or by fraudulent means, payment of taxation due from him as determined by appropriate authority shall be punishable with death or transportation for life.

(2) Every person found guilty of blackmarketing with intent to make for himself an excessive and undue profit or gain in buying and selling of goods or property, movable or immovable, shall be punishable with death or transportation for life:

Provided that no prosecution under this section shall be started except with the sanction of the Government of India.

STATEMENT OF OBJECTS AND REASONS.

The evil of evading taxation, particularly in respect of Income and Super Taxes, has in recent years attained such dimensions that a Special Commission of Investigation has had to be appointed by specific legislation to investigate such cases referred to the Commission by Government. The amount involved in such evasion of taxation has been estimated to aggregate several hundred crores of rupees, even if such amounts are considered only since the 1st of April 1945. Most of this evasion is effected by fraud, falsehood or corruption and bribery. The money thus kept away from the public exchequer is responsible in a large degree for progressive rise in prices and other evils characterising Indian economy today. Under these circumstances it is necessary and expedient to provide for effective and deterrent punishment of those found guilty of such offences.

Similarly, the evil of blackmarketing prevails on a large scale, and results in intensive exploitation of the ignorant, helpless and backward masses. All the measures of control or rationing tend to be defeated or circumvented by the blackmarketeer. Evils of corruption and bribery result from this source on a large scale; and the profit made in such market is a fruitful occasion for evasion of taxation. It is equally imperative, therefore, to provide for prompt and deterrent punishment of those found guilty of such practices.

K. T. SHAH.

A. BILL NO. 73 OF 1949.

A Bill to provide for protection, maintenance, custody, education and employment of children.

WHEREAS it is expedient and necessary to provide for protection, maintenance, custody, education and employment of uncared for children and young persons so as to save them from moral and material abandonment and exploitation;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(*1*) This Act may be called the Children's Protection Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "a child" means any person not above the age of fourteen;

(*b*) "parent" means father or mother including a step-father and step-mother;

(*c*) "guardian" means any person who is, for the time being, in actual charge, custody or control of the child or young person;

(*d*) "young person" means any person who is above fourteen years of age but not above eighteen;

(*e*) "prescribed" means prescribed by rules made under this Act.

3. Interrogation of children or young persons loitering, begging or vagabonding in public places.—It shall be lawful for any Magistrate, a Member of the Provincial or Central Legislature, a police constable and any other person as may be prescribed to interrogate any child or young person found loitering or begging or vagabonding in any public street, or at any railway station or in or near any public place, to bring him before a Magistrate.

4. Registration of uncared for children or young persons.—If it is found that a child or a young person is not being maintained or looked after or otherwise provided for in any reasonable manner or is being used for earning money by any means other than regular employment, he shall at once be registered as an uncared for child or young person.

5. Release of children or young persons on parent or guardian giving an undertaking.—In every case where the child or young person has a parent or a proper guardian prepared to look after him, the child or young person may be released on such parent or parents or guardian or guardians giving an undertaking in writing, with one respectable surety, that—

(*i*) the child or the young person will not be permitted to loiter any further,

(*ii*) he will be provided with adequate food and clothing at the house and supervised,

(*iii*) he shall be enrolled as a student in some school as far as possible, and

(*iv*) if the circumstances of the family demand that he should be employed, he is in regular employment of some person whose name and status shall be intimated to a police station from time to time together with the wages or salary received and a statement of the nature of work the child or the young person is required to do.

6. **Defaulting parent or guardian to execute a bond.**—The parent or guardian, who fails to carry out or act upto the above undertaking in any particular, may be required to execute a bond in a sum not exceeding five hundred rupees with one surety in the like sum.

7. **Penalty for subsequent failure by parent or guardian.**—On subsequent failure, the parent or guardian, besides being liable to be punished with forfeiture of the bond, shall be liable to fine which may extend to two hundred and fifty rupees.

8. **Provincial Government to make arrangements for education, employment and care of uncared for children or young persons.**—Every child or young person, for whom no possibility of adequate maintenance and care appears available, shall be registered as an uncared for child or young person, as the case may be, and it shall be the duty of the Provincial Government, with the assistance of the Central Goverement if possible to make adequate arrangements for his education, employment and care.

9. **Return of enrolled child or young person to his parent or guardian.**—Any child or young person so enrolled and admitted in a public institution for purposes of employment, education or otherwise, may be handed over to his parent or guardian on his paying the cost of his maintenance to Government and depositing a sum not exceeding five hundred rupees as an undertaking to look after the child or young person adequately in the future.

10. **Right of Government to recover expenses in fit cases.**—It shall be lawful for any Provincial or State Government to recover, in a fit case, the expenditure incurred on the education and maintenance of the child or the young person, wherever his parent, guardian or a near relation is capable of paying the same.

11. Arrest of escaped children or young persons.—It shall be lawful for any police officer or constable to arrest without a warrant any child or young person who has escaped from the public institution to which he was admitted.

12. A child or young person of criminal tendencies to be kept separately.—A child or a young person guilty of more than one attempt to run away from such an institution, or one who has manifested any definite criminal tendencies, shall be kept separately from other children.

13. Employment, etc., of a child or young person to contribute towards his maintenance and education.—It shall be lawful for any Provincial, State or Central Government to put such a child or a young person to any employment, teach him any course of study or vocation or calling or in any other manner to utilize him so as to, by his efforts and work, contribute towards his own maintenance and education.

14. Government not to make profit.—No Government shall, however, make any profit as a result of the work and labours of any child or young person admitted to State custody.

15. Power to make rules.—The Central Government may make rules for the purpose of giving effect to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS.

I believe it is the experience of everyone how children and young persons of all ages are found loitering in public streets, near cinema houses and theatres, at railway stations, and in public places without any work, very shabily, if at all clad and living a life which is a matter of shame and disgrace to the whole Indian nation. Such valuable human material is not only being wasted on a very large scale but the fact that it is not possible to make any arrangements or provide for their education and maintenance or even supervision of any sort has contributed to encourage them at this early age to fall a prey to bad and unsocial habits so as to make them not only potential but often real enemies of Society. The provisions in the above Bill are designed to meet his unbearable situation. The Bill does place upon the provincial, State and Central Governments the responsibility of looking after these children, but it is a responsibility which, I believe, no Government would like to avoid. The sooner it is recognized the better it would be for these innumerable children

and young persons as well as the well-being and reputation of the Indian Nation. I do not expect, if the provisions are properly enforced, the cost would be exhorbitant. In any case the value of good results flowing from it will far exceed the cost borne by all the Governments.

We have rightly included the following in the Directive Principles of State Policy in the Constitution that we are adopting.

"Article 31. The State shall, in particular, direct its policy towards securing—

* * * *

(vi) that childhood and youth are protected against exploitation and against moral and material abandonment."

My Bill seeks to secure the early realization of this objective. I am aware that some Provinces have children's Acts. But so far as the purpose embodied in the above Bill is concerned they are a dead letter.

P. S. DESHMUKH.

A. BILL No. 74 OF 1949.

A Bill to establish a Council of the Press of India to safeguard the freedom of the Press.

WHEREAS it is expedient to safeguard the freedom of the Press, to encourage the sense of public service amongst those who are engaged in the profession of journalism and to prevent the growth of monopolistic tendencies in the control and management of the Press in in this country;

It is hereby enacted as follows:—

1. **Short title, extent and commencement.**—(*1*) This Act may be called the Council of the Press of India Act, 19 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. **Definitions.**—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Press" means newspapers, magazines and periodicals other than those employed for sports and entertainments only, published in this country.

(*b*) "Council" means the Council of the Press of India constituted under this Act.

(*c*) "Monopolistic" means that no person shall hold the ownership of more than one newspaper and one periodical or one magazine.

3. Council of the Press of India.—The Government of India shall immediately establish a Council, as hereinafter provided, called the Council of the Press of India.

4. Composition of the Council.—The Council shall consist of twenty members nominated by the Government in the first instance as under:—

(i) six members from the proprietors of the Press,

(ii) eight members from editors, journalists and subordinate editorial staff,

(iii) four members from the members ot the Central Legislature, and

(iv) two members from outside other than those mentioned in clauses (i) to (iii).

One of the members of the Council shall be appointed as the President of the Council, by the Government in the first instance.

5. Duration of the Council and re-nomination of old members.—(1) The Council, in the first instance, shall be constituted for a period of three years. The Government shall after the expiry of every three years constitute a new Council.

(*2*) Members who have served in one Council may be re-nominated in subsequent Councils.

6. Objects of the Council.—The object of the Council shall be—

(i) to safeguard the freedom of the Press;

(ii) to encourage the sense of public service amongst those who are engaged in the profession of journalism; and

(iii) to prevent the growth of monopolistic tendencies in the management and control of the Press in India.

7. Power to make rules.—(1) The Council may, from time to time, make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(*a*) for keeping under review any development likely to restrict supply of information of public interest and importance ;

(*b*) for building up a high professional standard in journalism ;

(*c*) for receiving and considering complaints about the Press ;

(*d*) for keeping under review any development in Press which may tend towards monopoly ;

(*e*) for setting up proper methods for imparting good training for journalism ;

(*f*) for setting up proper methods of recruitment, pay, provident fund, pension and leave scheme for the staff employed in the Press ;

(*g*) for election of members of the Council ;

(*h*) for publishing periodical reports recording its work and reviewing from time to time the various developments in the Press ; and

(*i*) for investigating and reporting on the membership of any company responsible for the publication of the newspaper or periodical, for the purpose of determining the true persons who are financially interested in the company, and materially influence the policy of the company.

8. Council to submit report to Government.—The Council shall submit to the Government, every year a report recording its own working and a report regarding the Press of India with special reference to ownership and control of important newspapers and periodicals in this country, external influence, if any, on the policy of the Press, degree of concentration of ownership of the Press, together with their recommendations.

STATEMENT OF OBJECTS AND REASONS.

The democratic form of society requires that its members should take an active and intelligent part in the affairs of the community. Therefore it is essential that all members of the community should be supplied with clear and true accounts of events that take place around them and elsewhere, their background and causes, and an

impartial criticism on those matters. The responsibility for fulfilling this need has been to some extent carried out. In view however of this importance of the Press in the society, and also of the changed conditions and time, it is considered necessary to safeguard the freedom of the Press, to encourage a keen sense of public responsibility amongst all those who are engaged in the profession of journalism. It is also equally essential that only people who are properly trained and equipped enter into the profession. Moreover, in recent years, it is noticed that newspapers and periodicals in this country are gradually coming into the hands are under the influence of a particular class of people or being concentrated into a fewer and fewer hands. Independent newspapers are brought over by rich businessmen owning newspapers in different towns who dictate their own policy and contents. It is therefore most desirable that a proper check is put on such anti-social tendencies and the present lot of those who have entered in the profession of journalism is improved. With this object in view this Bill is proposed.

R. K. SIDHVA.

A. Bill No. 76 of 1949.

A Bill to make provision for employment and training for employment and to establish a comprehensive youth employment service.

Whereas it is expedient to make provision relating to employment and training for employment and to provide for the establishment of a comprehensive Youth Employment Service and for purposes connected therewith;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(*1*) This Act shall be called the Training and Employment Act, 195 .

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. Providing proper facilities for employment of persons.—Subject to the provisions of this Act, it shall be the duty of the Ministries of Labour and Education—

(i) to provide such facilities and service as may be considered expedient for the purpose of assisting persons to select, to fit

themselves for and to obtain and retain, employment suitable to their age and capacity;

(ii) to assist employers to obtain suitable employees; and

(iii) generally to promote employment in accordance with the requirements of the community so as to attain thereby a higher standard of living for the whole community.

3. Appointment of Advisory Committees.—(*1*) The Ministries concerned may, for the purpose of advising and assisting them in the discharge of their functions, appoint such separate or joint Advisory Committees as they may think fit for the whole of India or any part thereof.

(*2*) The Ministries of Labour and Education shall make regulations with respect to the constitution and functions of any of the Advisory Committees appointed under sub-section (*1*).

4. Establishment of Employment Exchanges.—(*1*) The Ministry of Labour may establish and maintain in such places as it thinks fit Employment Exchanges, that is to say offices or places for the collection and furnishing of information either by the keeping of registers or otherwise respecting persons who seek to engage employees and persons who seek employment.

(*2*) Without prejudice to sub-section (*1*), the Ministries may make such arrangements which they deem expedient for the collection and furnishing of information for providing advice, guidance and other services to persons of any class (whether employed or not) for any of the purposes mentioned in section 2 of this Act.

5. Provision of Funds.—The Minister or Ministers concerned may provide in the annual budget such sums of money as may be needed for the fulfilment of the purposes of this Act.

6. Contribution towards the expenditure incurred by private bodies or any local authority. —The Minister or Ministers may defray or contribute towards the expenditure incurred by any organization, society or Provincial, State, or any other local authority whatsoever, towards their funds provided the Ministries are convinced that these contributions shall be spent for the purposes mentioned in section 2 of this Act.

7. Management of Employment Exchanges.—The Ministers may make regulations with respect to the management of all Employment Exchanges provided by them under this Act and otherwise with respect to the exercise of their functions thereunder.

8. Right of persons to refuse employment found through any Employment Exchange.—No person shall be disqualified or otherwise prejudiced in respect of facilities provided at any Employment Exchange on account of his refusal to accept employment found for him through an Employment Exchange if the ground of his refusal is that a trade dispute which affects the trade exists or that the wages offered are lower than those current in the trade in the district where the employment is found.

9. Provision for Compulsory Training Courses.—The Minister or Ministers may provide such training courses for persons who are said to be communists whether employed or not and who are above the age of compulsion, as he or they thinks or think necessary or expedient for increasing the efficiency, knowledge, technical skill or capacity of such persons. Either of the Ministers may, by order in writing, compel any child or young person declared to be destitute, delinquent or uncared for under any law for the time being in force to join any training course for such length of time as may be indicated, for the purpose either for getting trained or for any other purpose.

10. Maintenance of Register of Persons seeking employment and publications of figures of persons employed.—It shall be the duty of the Government to maintain in detail a Register of all persons who are seeking employment and the figures of persons employed shall be published in the official Gazette at least once in two weeks at regular intervals.

11. Implementation of schemes of training in co-operation with local authorities or private bodies.—Any scheme of training or employment may be worked through, or in co-operation with any State Government or local authority or a recognized private organization.

STATEMENT OF OBJECTS AND REASONS.

Although Employment Exchanges have come into being as a result of the war and they have since been continued, there remains much to be done in giving them a proper shape and status in the social and economic life of the country. In the second place, there is a great need of increased facilities of training in the various arts, crafts and industries. Although the Ministry of Labour is attending to this, there is lack of co-ordination between this Ministry and Ministry of Education. In fact the Ministry of Education appears to have

nothing to do with this matter. The Bill, therefore, seeks to remedy this unsatisfactory state of affairs. The third object in view is to place greater emphasis on this important work and to arouse governmental as well as popular interest.

P. S. DESHMUKH.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 17th December, 1949 :—

A. BILL No. 77 OF 1949.

A Bill to amend the Rehabilitation Finance Administration Act, 1948.

WHEREAS it is expedient to amend the Rehabilitation Finance Administration Act, 1948 (XII of 1948), for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the Rehabilitation Finance Administration (Amendment) Act, 1949.

2. Amendment of Section 1, Act XII of 1948.—In section 1 of the Rehabilitation Finance Administration Act, 1948 (hereinafter referred to as the said Act), for sub-secaion (2) the following sub-section shall be substituted, namely :—

"(2) It extends to all the Provinces of India, and also to every Acceding State to the extent to which the Dominion Legislature has power to make laws for that State with respect to the matters dealt with in this Act."

3. Amendment of Section 2, Act XII of 1948.—In section 2 of the said Act,—

(*I*) in clause (*d*),—

(*a*) in sub-clause (*i*), for the words "outside India," the words "now forming part of Pakistan" shall be substituted; and

(*b*) in sub-clause (*ii*), for the words "outside India," the words "in any area now forming part of Pakistan" shall be substituted; and

(2) for clause (e), the following clause shall be substituted, namely:—

(e) "loan" means a sum of money advanced by the Administration—

(i) to a displaced person for the purpose of any business or industry in which he is engaged or intends to engage himself, or

(ii) in respect of any business or industry, a substantial portion of which is owned by displaced persons; and'

4. Amendment of Section 3, Act XII of 1948.—In sub-section (1) of section 3 of the said Act, the following words shall be added at the end, namely:—

"or to any business or industry, a substantial portion of which is owned by displaced persons."

5. Amendment of Section 4, Act XII of 1948.—In section 4 of the said Act, in clauses (b) and (c), for the word "three" the word "four" shall be substituted.

6. Amendment of Section 10, Act XII of 1948.—In section 10 of the said Act,—

(i) the words "and with the prior sanction of the Central Government" shall be omitted; and

(ii) to that section the following proviso shall be added, namely:—

"Provided that the appointment and the fixation of the salary, allowances and other conditions of service of the Deputy Chief Administrator and such other officers as may be prescribed by the Central Government, shall be subject to the previous sanction of that Government."

7. Amendment of Section 11, Act XII of 1948.—In sub-section (2) of section 11 of the said Act, for the words "All moneys belonging to the Administration," the words "Subject to any regulations that may be made in this behalf, all moneys belonging to the Administration which are not immediately required by the Administration for any purpose" shall be substituted.

8. Amendment of Section 16, Act XII of 1948.—In sub-section (1) of section 16 of the said Act, for the words and figures "section 144 of the Indian Companies Act, 1913 (VII of 1913)," the words and figures "the Chartered Accountants Act, 1949 (XXXVIII of 1949)" shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to increase the number of official and non-official members of the Rehabilitation Finance Administration in order to secure wider representation for interests concerned, and to enable the Administration to grant loans to business concerns in which a substantial number of displaced persons are interested. The Bill also provides for the extension of the Act to Acceding States and for more practicable and efficient arrangements regarding recruitment of staff and custody of funds of the Administration.

JOHN MATTHAI.

NEW DELHI;

The 9th December, 1949.

The following Bill was introduced in the Constituent Assembly of India (Legislative) on the 20th December 1949 :—

A. *BILL NO. 79 OF 1949.

A Bill to amend the Banking Companies Act, 1949.

WHEREAS it is expedient to amend the Banking Companies Act, 1949 (X of 1949), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title.**—This Act may be called the Banking Companies (Amendment) Act, 1949.

2. **Amendment of section 1, Act X of 1949.**—In the Banking Companies Act, 1949 (hereinafter referred to as the said Act), in sub-section (*2*) , for the words " has power to make laws," the words and figures " has power on the 1st day of December, 1949, to make laws " shall be substituted.

3. **Substitution of " outside India " for " elsewhere than in a Province of India ", etc., in certain sections of Act X of 1949.**—In the said Act, wherever an expression mentioned in the first column of the Table hereinunder printed occurs, otherwise than in section 1, unless that

*The Governor-General has been pleased to give the previous sanction required by section 153 of the Government of India Act, 1935, to the introduction in the Legislature of this Bill.

expression is expressly directed to be otherwise amended in this Act, there shall be substituted therefor the expression set opposite to it in the second column of that Table.

TABLE.

1	2
in a province of India in any province of India in the Provinces of India	..... in India.
elsewhere than in a Province of India outside the Provinces of India	..... outside India.

4. Amendment of section 3, Act X of 1949.—In section 3 of the said Act, for the word "Province" the word "part" shall be substituted.

5. Amendment of section 5, Act X of 1949.—In section 5 of the said Act,—

(*i*) after clause (*g*) of sub-section (*1*), the following clause shall be inserted, namely :—

"(*gg*) 'India' means the Provinces and States to which this Act extends ;";

(*ii*) sub-section (*2*) shall be omitted.

6. Amendment of section 11, Act X of 1949.—In section 11 of the said Act, the *Explanation* to sub-section (*3*) shall be numbered as *Explanation 1*, and, after that *Explanation* as so numbered, the following *Explanation* shall be inserted as *Explanation 2*, namely :—

"*Explanation 2.*—In this sub-section, all references to a Province shall be construed as including a reference to every Acceding State to which this Act extends."

7. Amendment of section 23, Act X of 1949.—In section 23 of the said Act, for the words "No banking company shall open a new place of business or change, otherwise than within the same city, town or village, the location of an existing place of business without obtaining the prior permission in writing of the Reserve Bank", the following words shall be substituted, namely :—

"No banking company shall open a new place of business in any part of India or change, otherwise than within the same city,

town or village, the location of an existing place of business situated in any part of India, and no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area without first obtaining the prior permission in writing of the Reserve Bank :".

8. Amendment of section 25, Act X of 1949.—In section 25 of the said Act, for clause (*a*) of sub-section (*3*), the following clause shall be substituted namely :—

"(*a*) "assets in India" shall be deemed to include export bills drawn in, and import bills drawn on, and payable in India and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, notwithstanding that all or any of the said bills or securities are held outside India."

9. Insertion of new section 44A in Act X of 1949.—After section 44 of the said Act, the following section shall be inserted, namely :—

"44A. *Procedure for amalgamation of banking companies.*—(*1*) Notwithstanding anything contained in any law for the time being in force, no banking company shall amalgamate itself with another banking company, unless a scheme containing the terms of such amalgamation has been placed in draft before the shareholders of each of the banking companies concerned separately, and approved by a resolution passed by a majority of the shareholders, representing two-thirds in value of the paid-up capital of each of the said companies, at an extraordinary general body meeting called for the purpose.

(*2*) Notice of every such meeting as is referred to in sub-section (*1*) shall be given to every shareholder of the banking company concerned, in accordance with its articles of association, indicating the time, place and object of the meeting and shall also be published once a week for three consecutive weeks in some newspaper circulating in the locality where the registered office of the banking company concerned is situated.

(*3*) If the scheme of amalgamation is approved by the requisite majority of members present at the meeting either in person, or by a proxy in cases where voting by proxy is allowed, it shall be submitted to the Reserve Bank for sanction and, on

receipt of such sanction, shall be binding on the banking companies concerned and on all the members thereof.

(4) Any shareholder, who has voted against the scheme of amalgamation at the meeting or has given notice in writing at or prior to the meeting to the company or to the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall be entitled to claim from the banking company concerned, in respect of the shares held by him in that company, their market value as on the date immediately prior to the passing of the resolution approving of the scheme of amalgamation, and where there is no market value for such shares, such value as may be arrived at by agreement between the banking company and the dissenting shareholder:

Provided that, if the banking company and the dissenting shareholder do not agree as to the value to be paid for the shares of the dissenting shareholder, the dispute shall be referred by the banking company or the dissenting shareholder to the Reserve Bank for decision and the decision of the Reserve Bank as to the value of the shares to be paid to the dissenting shareholder shall be final for all purposes.

(5) Where the terms of any scheme of amalgamation between two or more banking companies have been sanctioned by the Reserve Bank as aforesaid, the board of directors of each of the banking companies concerned shall have power to enter into all such transactions with the other banking company on behalf of their respective shareholders as may be necessary to secure that the amalgamation shall be fully and effectually carried out and that the rights and liabilities of the members in the amalgamated banking company are safeguarded in terms of the scheme of amalgamation.

(6) Where the board of directors of each of the amalgamating banking companies has by a resolution passed in this behalf declared that all acts and things to be done to give effect to the amalgamation have been done and an affidavit to that effect has been sworn by a responsible officer of each of the banking companies concerned and filed with the registrar, the amalgamation shall become complete, and the registrar shall thereupon strike off the name of that banking company which has ceased to function in its original name.

(7) A copy of every affidavit filed under sub-section (6) shall also be forwarded to the Reserve Bank."

10. Substitution of new section for section 45, Act X of 1949.—For section 45 of the said Act, the following section shall be substituted namely :—

"45. *Restriction on compromise or arrangement between banking company and creditors.*—Notwithstanding anything contained in any law for the time being in force, no Court shall sanction a compromise or arrangement between banking company and its creditors or any class of them or between such company and its members or any class of them unless the compromise or arrangement is certified by the Reserve Bank as not being detrimental to the interests of the depositors of such company."

11. Insertion of New Part IIIA in Act X of 1949.—In the said Act after Part III, the following shall be inserted as Part IIIA, namely :—

"PART IIIA.

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP PROCEEDINGS.

45A. *Court defined.*—In this Part and in Part III, "Court" means the High Court exercising jurisdiction in the place where the registered office of the banking company which is being wound up is situated or, in the case of a banking company incorporated outside India which is being wound up, where its principal place of business is situated, and notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any notification, order or direction issued thereunder or in any other law for the time being in force, no other Court shall have jurisdiction to entertain any matter relating to or arising out of the winding up of a banking company.

45B. *Power of Court to decide all claims by or against banking companies.*—(*1*) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in any other law for the time being in force, the Court shall have full power to decide all claims made by or against any banking company (including claims by or against any of its branches in India), and all questions of priorities and all other questions whatsoever, whether of law or fact, which may relate to or arise in the course of the winding up of the banking company coming within the cognizance of the Court.

(2) There shall be a right of appeal from every order or decision made under this section which, so far as regards the Court expressing it, conclusively determines the rights of the parties with respect to any matter in controversy, and the Court may make rules prescribing the manner in which and the conditions subject to which any such appeal may be filed and heard.

(3) Subject to the provisions of sub-section (2) and notwithstanding anything contained in any other law for the time being in force, every such order or decision shall be final and binding for all purposes as between, on the one hand, the banking company and, on the other hand, all persons who are parties thereto and all persons claiming through or under them or any of them.

45C. *Special provisions for punishing offences in relation to companies being wound up* (1) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, the Court may, if it thinks fit, take cognizance of and try in a summary way any offence alleged to have been committed by any person who has taken part in the formation or promotion of the banking company which is being wound up or any past or present director, manager or officer thereof:

Provided that the offence is one punishable under the India Companies Act, 1913 (VII of 1913), with imprisonment for a term which does not exceed two years, or with fine which does not exceed one thousand rupees.

(2) In every case tried summarily under sub-section (1), the Court—

(a) need not summon any witness, if it is satisfied that the evidence of such witness will not be material,

(b) shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the Court, necessary in the interests of justice,

(c) shall, before passing sentence, record judgment embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as that section may be applicable,

and nothing contained in sub-section (2) of section 262 of the Code of Criminal Procedure, 1898, shall apply to any such trial.

(*3*) All offences in relation to winding up alleged to have been committed by any person specified in sub-section (*1*) which are punishable under the Indian Companies Act, 1913 (VII of 1913), and which are not tried in a summary way under sub-section (*1*) shall, notwithstanding anything to the contrary contained in that Act or the Code of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force, be taken cognizance of and tried by a Judge of the Court other than the Judge for the time being dealing with the proceedings for the winding up of the banking company.

(*4*) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Court shall take cognizance of any offence under this section without the accused being committed to it for trial and all such trials shall be without the aid of a jury.

45D. *Reserve Bank may tender advice in winding up proceedings.*—Where in any proceeding for the winding up of a banking company in which any person other than the Reserve Bank has been appointed as the official liquidator the Court has directed the official liquidator to obtain the advice of the Reserve Bank on any matter (which it is hereby empowered to do), it shall be lawful for the Reserve Bank to examine the records of any such proceeding and tender such advice on the matter as it may think fit.

45E. *District Magistrate to assist official liquidator in taking charge of property of banking company being wound up.*—(*1*) For the purpose of enabling the official liquidator to take into his custody or under his control, all property, effects and actionable claims to which a banking company, which has been ordered to be wound up, is or appears to be entitled, the official liquidator may request in writing the District Magistrate, within whose jurisdiction any property, books of account or other document of such banking company may be situate or is to be found, to take possession thereof, and the District Magistrate shall on such request being made to him take possession of such property, books of account or other document and forward them to the official liquidator.

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the District Magistrate may take or cause to be taken such steps and use or cause to be used such force as may in his opinion be necessary.

45F. *Special period of limitation.*—Notwithstanding anything to the contrary contained in the Indian Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, in computing

the period of limitation prescribed for any suit or application by a banking company, the period of one year immediately preceding the date of the order for the winding up of the banking company shall be excluded."

12. Transfer of pending proceedings in winding up to the Court exercising jurisdiction under this Act.—Where any proceeding, for the winding up of a banking company or any other proceeding, whether civil or criminal, which has arisen out of or in the course of such winding up, is pending in any Court immediately before the commencement of this Act, it shall stand transferred on such commencement to the Court which would have had jurisdiction to entertain such proceeding if this Act had been in force on the date on which the proceeding commenced, and the Court to which the proceeding stands so transferred shall dispose of the proceeding as if this Act and the amendments made thereby were applicable thereto.

13. Repeal of Ordinance XXIII of 1949.—(*1*) The Banking Companies (Amendment) Ordinance, 1949, is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS.

The Banking Companies (Amendment) Ordinance, 1949 (No. XXIII of 1949) containing special provisions for the speedy disposal of winding up proceedings of banking companies in the interests of creditors and public morality was promulgated by the Governor-General on the 19th September, 1949. The Bill seeks to incorporate these provisions in the Banking Companies Act, 1949, on a permanent basis.

2. In addition to the above, the Bill seeks to amend the Banking Companies Act, 1949, for the following purposes :—

(*i*) to incorporate special provisions for facilitating quick amalgamations between banking companies ;

(*ii*) to empower the Reserve Bank to control opening of branches by Indian banks in foreign countries ;

(*iii*) to provide that for the purposes of section 25 of the Act "assets in India" shall be deemed to include export bills drawn in and import bills drawn on and expressed in such currencies as the Reserve Bank may from time to time approve in this behalf and also such securities as the Reserve Bank may approve in this behalf, including bills and securities held outside India.

JOHN MATTHAI.

NEW DELHI;
The 7th December, 1949.

A. BILL NO. 81 OF 1949.

A Bill to provide for the expulsion from Assam of undesirable immigrants.

WHEREAS it is expedient to provide for the expulsion from Assam of undesirable immigrants;

It is hereby enacted as follows:—

1. Short title and extent.—(*1*) This Act may be called the Undesirable Immigrants (Expulsion from Assam) Act, 1949.

(*2*) It extends to the whole of India.

2. Power to order expulsion from Assam of undesirable immigrants.—If the Central Government is satisfied that any person, having been ordinarily resident in any part of Pakistan, has, whether before or after the commencement of this Act, come into Assam and that his stay in that Province is detrimental to the interests of India, the Central Government may by order—

(*a*) direct that person to remove himself from the Province of Assam within such time and by such route as may be specified in the order; and

(*b*) give such further directions in regard to his removal from Assam as it may consider necessary or expedient.

3. Delegation of power.—The Central Government may, by notification in the official Gazette, direct that the powers and duties conferred or imposed on it by section 2 shall, subject to such conditions, if any,

as may be specified in the notification, be exercised or discharged also by—

(*a*) any officer subordinate to the Central Government;

(*b*) the Provincial Government of Assam or any officer subordinate to that Government.

4. Power to give effect to orders, etc.—Any authority empowered by or in pursuance of the provisions of this Act to exercise any power may, in addition to any other action expressly provided for in this Act, take or cause to be taken such steps, and use or cause to be used such force, as may in its opinion be reasonably necessary for the effective exercise of such power.

5. Penalties.—Any person who contravenes or attempts to contravene, or abets a contravention of, any order made under section 2, or fails to comply with any direction given by any such order, shall be punishable with imprisonment which may extend to three years and shall also be liable to fine.

6. Protection to persons acting under this Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS.

During the last few months a serious situation had arisen from the immigration of a very large number of East Bengal residents into Assam. Such large migration is disturbing the economy of the Province, besides giving rise to a serious law and order problem. The Bill seeks to confer necessary powers on the Central Government to deal with the situation.

N. GOPALASWAMI.

NEW DELHI;
The 9th December, 1949.

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